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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,072	08/26/2003	James C. Feng		4640

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JAMES C. FENG  
201 S. CATALINA AVENUE #4  
PASADENA, CA 91106

EXAMINER

LEWIS, RALPH A

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 06/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/649,072	<b>Applicant(s)</b> FENG, JAMES C.	
	<b>Examiner</b> Ralph A. Lewis	<b>Art Unit</b> 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

### **Rejections based on Prior Art**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6-11, 24, 25, 27-29 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Propper (US 5,004,422).

Propper discloses an implant having a base shaped as the root of an extracted tooth. The implant may include an integrally formed post (the claimed “abutment”) on which a crown is received (column 3, lines 60-64) or the post (abutment) may be separately formed and threadingly attached to the implant (column 4, lines 6-9 – Figure 7). In regard to claim 6, note column 4, line 19 and column 1, line 56. In regard to claim 24, it is noted that there is no requirement that the claimed method steps are to be performed sequentially as claimed.

Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Wright (US 448,745).

Note the implant of Figure 1 with abutment B and base A that “must have a root shaped as nearly as practicable like that of a natural tooth” (column 2, lines 57-59).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Propper (US 5,004,422) in view of Vlassis (US 5,366,374).

Vlassis teaches that portions of dental implants which are to be contact with the patient's bone typically are etched or sand blasted in order to promote osteointegration. To have etched or sand blasted the root portion of the Propper implant in order to promote osteointegration as taught by Vlassis would have been obvious to one of ordinary skill in the art.

Claims 12-15 and 18- 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Propper (US 5,004,422) in view of Duret et al (US 4,742,464).

In the Propper method once a tooth is extracted a mold is made of it in a lost wax process and an implant is then die cast from the constructed mold (note column 3, lines 3-12). Duret et al, teach, that a simpler and more accurate alternative to the involved multi-step mold/casting method of the prior art (column 1, lines 36-51) is the use of computer aided design and manufacturing (CAD/CAM) wherein the desired part is scanned, the scanned image is then modified as needed/desired on the a computer and then the part is milled from a blank of material with a computer controlled milling

machine. One of ordinary skill in the art would have found it obvious to have replaced the complicated and inaccurate mold/casting method disclosed by Propper with the prior art improvement of CAD/CAM system as taught by Duret et al in order to make the implant more easily and accurate.

Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Propper (US 5,004,422) and Duret et al (US 4,742,464) as applied above to claim 12 and in further view of Vlassis (US 5,366,374).

Vlassis teaches that portions of dental implants which are to be contact with the patient's bone typically are etched or sand blasted in order to promote osteointegration. To have etched or sand blasted the root portion of the Propper implant in order to promote osteointegration as taught by Vlassis would have been obvious to one of ordinary skill in the art.

Claims 26 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Propper (US 5,004,422).

In regard to claim 26, to have cleaned the implantation site in order to ensure direct contact between the implant and the bone in order to ensure osteointegration of the implant would have been obvious to one of ordinary skill as a matter of routine in practicing the Propper invention. In regard to claim 32, the use of temporary crowns is customary with implant and the use of such with the Propper implant would have clearly been obvious to the ordinarily skilled artisan.

Claims 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Propper (US 5,004,422) in view of Wright (US 448,745).


Wright teaches the use of a wire F in Figure 4 to support the implant while healing. To have used such a prior art support with the Propper implant so that stabilization may be provided during the healing and integration would have been obvious to one of ordinary skill in the art in view of the teaching by Wright.

#### **Prior Art**

Taylor (US 3,979,828), Ashman (US 4,244,689), Marquez (US 4,773,858), Mushabac (US 5,224,049), Rekow et al (US 5,273,429), Dehoff et al (US 5,452,219), Fernandes (US 5,603,616), Hinds (US 6,039,568) and Dorken et al (US 6,099,313) are made of record.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication should be directed to **Ralph Lewis** at telephone number **(571) 272-4712**. Fax (571) 273-8300. The examiner works a compressed work schedule and is unavailable every other Friday. The examiner's supervisor, Kevin Shaver, can be reached at (571) 272-4720.

  
**Ralph A. Lewis**  
**Primary Examiner**  
Au 3732

R. Lewis  
February 27, 2006